

Docket No. F-8632

Ser. No. 10/531,815

REMARKS

Claims 1-6 and 23-27 remain pending in this application. Claims 1-6 and 19-27 are rejected. Claims 16-22 and 28 are cancelled herein. Claims 7-15 are previously cancelled. Claims 1, 4, 5, and 23-27 are amended herein to clarify the invention and/or to place the claims in better form.

Claims 1, 4-5, and 19-27 have been rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 3,062,457 (Willems).

The Examiner and Applicants' attorney conducted interviews on June 24, 2008 and August 1, 2008. The Examiner stated on June 24, 2008 that she would consider allowing the case if we placed the claims in form for allowance. Applicants' attorney sent a proposal by fax to the Examiner on June 24, 2008. The Examiner reviewed the proposal and suggested that the following be done:

- 1) Minor amendments be made to claim 1;
- 2) Claim 19 be cancelled and the claims which depend from claim 19 be made dependent from claim 1; and
- 3) The apparatus claims be cancelled.

On August 1, 2008, the Examiner stated that the method claims could be made allowable but that no rejoinder would take place with the apparatus claims and that the apparatus claims were not deemed to be allowable. The Examiner stated that if the Examiner's proposal were accepted and an appropriate amendment filed by the end of August, that the Examiner would enter the Amendment without the need for

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an RCE and would allow the case. Applicants hereby provide such Amendment as proposed by the Examiner. Claim 1 was amended as suggested by the Examiner, claim 19 has been cancelled, and the apparatus claims have been cancelled. The claims which depended from claim 19 either depend from claim 1 or have been cancelled. Additional amendments have been made to the dependent claims to ensure that they are consistent with the amendments to claim 1, which is now the only independent claim. Applicants respectfully request that the present claims be entered and allowed by the Examiner. Should the Examiner have any questions, Applicants respectfully request that the Examiner contact Applicants' attorney by telephone.

Applicants wish to reiterate that the objects of the present invention move in a curvilinear path at transonic speeds and that Willems fails to disclose any objects moving in a curvilinear path at transonic speeds. Moreover, Willems specifically discloses speeds significantly below transonic speed. In column 4, lines 50-65 of Willems is a table with the parameters for the invention of Willems. In the table, the largest outer circumference is 880 mm. The speed is 3000 revolutions per minute. Thus, the maximum speed of movement of the outer circumferential portion of the equipment is 158.4 km/hr (about 99 mph), which is many times lower than transonic speed. Thus, the largest speed that the blades or vanes can have in Willems is explicitly disclosed in Willems to be far from transonic speed. Applicants note that

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the reference to supersonic in Willems refers to vibrational frequency, not curvilinear movement.

It is Applicants' position that claim 1 has been clarified so as to more clearly distinguish over Willems. Accordingly, it is Applicants' position that claim 1 is patentable over Willems. The remaining claims are patentable at least for the reason that they depend from a patentable base claim.

Additionally, there is no disclosure in Willems of any pulses of impact pressure fronts that are less than 10 μ s.

Claims 2-3 and 6 have been rejected under 35 U.S.C. § 103(a) as obvious under U.S. Patent No. 3,062,457 (Willems).

Claims 2-3 and 6 are patentable at least for the reason that they depend from a patentable base claim. *See In re Fine*, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988).

Claim 6 is further patentable at least for the reason that a protective gas is not disclosed or suggested in Willems. The Office Action states on page 3 that the limitations of claim 6 "would have been obvious modifications by one skilled in the art once the basic apparatus was known." However, the Supreme Court has made clear that rejections on obviousness grounds "cannot be sustained by mere conclusory statements". *See KSR International Co. v. Teleflex Inc. et al.* 82 USPQ2d 1385, 1396 (2007). Accordingly, the USPTO has not met its burden of demonstrating *prima facie* obviousness of claim 6.

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Claims 1, 4, 5, and 23-27 are amended herein to clarify the invention and/or to place the claims in better form. Support for the claim amendments can be found in, for example, the claims as filed, paragraphs [0008] - [00010] of the specification, and Figure 3.

Applicants respectfully request a two month extension of time for responding to the Office Action. The fee of \$460.00 for the extension is provided for in the charge authorization presented in the PTO Form 2038, Credit Card Payment form, provided herewith.

If there is any discrepancy between the fee(s) due and the fee payment authorized in the Credit Card Payment Form PTO-2038 or the Form PTO-2038 is missing or fee payment via the Form PTO-2038 cannot be processed, the USPTO is hereby authorized to charge any fee(s) or fee(s) deficiency or credit any excess payment to Deposit Account No. 10-1250.

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In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited.

Respectfully submitted,
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